

U.S. Serial No. 09/536,074

PATENT
Attorney Docket No. PD-990197**REMARKS**

The applicants have carefully considered the official action dated January 26, 2005, and the references it cites. In the official action, claims 1-15, 17-22, and 24-26 were rejected as unpatentable over Schein et al. in view of Herz et al. By way of the foregoing amendments, claims 1 and 4 have been amended to correct minor typographical errors. In view of the following remarks, it is respectfully submitted that the pending claims 1-15, 17-22, and 24-26 are in condition for allowance. The applicants respectfully request reconsideration of this application.

The applicants respectfully submit that independent claim 1 is allowable over the art of record. The official action incorrectly contends that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system taught by Schein et al. with techniques described by Herz et al. to provide a program similarity detecting device as recited in claim 1. More specifically, the official action contends that one of ordinary skill in the art would have been motivated to modify the system taught by Schein et al. to include the weighted program characteristics taught by Herz et al. to "provide an enhanced EPG system." However, apart from the applicant's own disclosure, the examiner has failed to provide any evidence whatsoever to support his contention that the proposed modification of the system taught by Schein et al. as suggested in the official action constitutes an "enhancement" to the system taught by Schein et al. Further, any contention that any motivation and/or suggestion for combining the references exist in the references themselves or in common knowledge in the art is completely unfounded. On the contrary, as set forth in greater detail below, modifying the system taught by Schein et al. as suggested in the official

U.S. Serial No. 09/536,074

PATENT
Attorney Docket No. PD-990197

action contravenes the intended purpose and principle of operation of the system taught by Schein et al. (MPEP 8th Ed. R-2, § 2143.01).

Schein et al. teach an interactive system such as a set-top-box that provides a user a significant amount of control in searching an electronic program guide. In particular, the interactive system obtains program characteristics to search through an electronic program guide and returns all programs having those program characteristics or allows a user to "delve deeper into the available [television program] information by [providing] a series of further choices or related topics." (col. 10, lines 32-33). In other words, the interactive system provides all possible search results to the user and allows the user to narrow the search results manually by selecting further search criteria. For example, the interactive system provides a user with a menu (900) from which the user can select a type of search criterion. (col. 11, lines 50-51). If the user selects a category criterion (920), the system may present additional menus offering further criteria such as different categories. (col. 12, lines 17-20). After selecting a particular category, the interactive system may provide "[s]ubsequent menus ... to further refine the selection criterion applied by the user." (col. 12, lines 23-25). Schein et al. further describe searching an electronic program guide in a similar manner based on search criteria gathered from a user's viewing habits. For example, Schein et al. describe detecting that a user has watched the "Jerry Seinfeld" show and returning any search results having search criteria associated with that show. (col. 13, lines 61-67).

Thus, the Schein et al. system provides a user a significant amount of control over a search process by providing all search results to the user so that the user can manually refine the search results as desired. To prevent omitting search results that may be of interest to the user, the interactive system does not automatically filter search results based on weighted

U.S. Serial No. 09/536,074

PATENT
Attorney Docket No. PD-990197

criteria. On the contrary, Schein et al. teach returning all possible search results regardless of their weighted relation to one another or user preferences. For example, as described by Schein et al., if the user enters the term "Dr.," the interactive system returns a list of results that includes "Dr. Doolittle," "Dr. Zhivago," "Dr. Jekyll and Mr. Hyde," and "Dr. Strangelove." (col. 13, lines 40-43). The results are completely unrelated except that they all include the term "Dr." Further, there is no evidence in the Schein et al. reference of any motivation to filter the search results in any way other than by ensuring that each search result must include the term "Dr."

In contrast, Herz et al. teach a system that generates customer profiles at the head-end of a television broadcast system and automatically identifies programs based on the customer profiles "to extend a customer preference system ... to minimize active customer involvement in the determination of the desired programming." (col. 2, lines 49-54). To this extent, Herz et al. teach using weighted values to select "only those video programs or other data which most closely match the customer's objective preferences." (col. 4, lines 35-38).

Thus, Schein et al. teach providing a user a significant amount of control to manually filter through and refine search results, while Herz et al. teach minimizing the amount of customer involvement by using a weighted characteristics algorithm to automatically omit search results that do not closely match a customer's preferences.

As a result, combining Herz et al. with Schein et al. as suggested by the official action would render Schein et al. unsatisfactory for its intended purpose and would change its principle of operation because the weighted characteristics of Herz et al. would significantly limit the amount of control provided by the interactive system of Schein et al. by automatically filtering out search results without offering a user the ability to narrow search

U.S. Serial No. 09/536,074

PATENT
Attorney Docket No. PD-990197

criteria based on those search results as desired. Thus, there would have been no motivation or suggestion at the time of the invention either in the references or in common knowledge in the art to combine the references.

For the foregoing reasons, one of ordinary skill in the art would not have been motivated to modify the system taught by Schein et al. to enhance that system as alleged by the examiner. In fact, such a modification would be contrary to the teachings of Schein et al. and Herz et al. Accordingly, the applicants respectfully submit that independent claim 1 and claims 2-11 dependent thereon are now in condition for allowance.

Remaining claims 12-15, 17-22 and 24-26 are also allowable over the art of record for at least the reasons set for above in connection with independent claim 1.

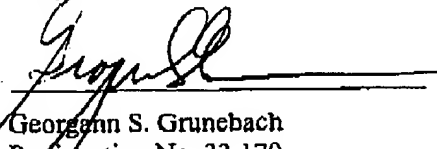
Finally, if the examiner elects to maintain the stated rejections, the applicants respectfully request entry of the foregoing amendments to put this application in condition for appeal.

U.S. Serial No. 09/536,074

PATENT
Attorney Docket No. PD-990197

In view of the foregoing, the applicants respectfully submit that this application is in condition for allowance. If there are any remaining matters that the examiner would like to discuss, the examiner is invited to contact the undersigned representative at the telephone number set forth below.

Respectfully submitted,



Georgann S. Grunebach
Registration No. 33,179
Attorney for Applicants

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The DIRECTV Group, Inc.
RE / R11 / A109
P.O. Box 956
2250 E. Imperial Highway
El Segundo, CA 90245
310-964-4615